

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

CRIMINAL NO. 1:01CR48

UNITED STATES OF AMERICA

VS.

DENNIS MERRIMON WATERS

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ORDER

THIS MATTER is before the Court *sua sponte*.

The Defendant was sentenced by the undersigned on October 1, 2002, to a term of life imprisonment for conspiracy to possess with intent to distribute cocaine and cocaine base. **Judgment in a Criminal Case, filed October 17, 2002.** On June 24, 2009, the Probation Office filed a Supplement to the Defendant's presentence report pursuant to the Crack Cocaine Guideline Amendment. **Supplement to the Presentence Report, filed June 24, 2009.** The Probation Office advises that pursuant to Guidelines § 5G1.1, the sentence imposed may not be below the statutorily required minimum sentence. ***Id.* at 1.** If Amendment 706 had been in place at the time Defendant was sentenced, the guideline range

would have been the mandatory minimum sentence of life imprisonment; therefore, the new amendment has no effect on the Defendant's sentence.

Id. Because this recommendation is adverse to the Defendant, the Court will require counsel be appointed to represent the Defendant and appointed counsel shall file an appropriate response.

IT IS, THEREFORE, ORDERED that the Federal Defender appoint counsel for the Defendant forthwith.

IT IS FURTHER ORDERED that appointed counsel file response to the Supplement to the Presentence Report within 30 days from entry of this Order.

The Clerk is directed to provide appointed counsel with a copy of this Order.

Signed: June 30, 2009

A handwritten signature in dark ink, appearing to read 'L. H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

